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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,644	08/13/2001	Noriyuki Matsui	1341.1103	7992
21171	7590	07/08/2004	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			HIRL, JOSEPH P	
			ART UNIT	PAPER NUMBER
			2121	

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/927,644

Applicant(s)

MATSUI ET AL.

Examiner

Joseph P. Hirl

Art Unit

2121

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires three months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-12.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


Anthony KnightSupervisory Patent Examiner 07012004
Group 3600

Continuation of 5. does NOT place the application in condition for allowance because: the arguments have been fully considered but are not persuasive.

1. Regarding the rejection under 35 USC 101, to one of ordinary skill in the art, development of a patent that is customized to a user's response will manifest different answers on different days with the same user evaluating the same selection of possible answers. For sure, different users will manifest even greater dissimilarity. Under such conditions, it would be an oxymoron to infer that high correlation levels would be present and as a consequence, the result is in question. The principal of concreteness is part of the State Street test which is identified in the applicants response dated May 21, 2004 at page 2, line 21.

2. It is not the policy of the USPTO to comment on the patentable strengths of published patents.

3. Regarding rejections under 35 USC 102, the Examiner has the obligation to interpret the claims in the broadest reasonable manner. Hence, Hennessey does indeed anticipate "extracting causes with high correlation levels from the plurality of causes based on answers" by "comparing data stored in the knowledge database with the captured image data and using an algorithm to extract data that are similar to the captured image data from the knowledge database. Both identify "X" and extract "Y" based on the features of "X". Of course, the considerations that are non statutory have been eliminated.

4. Again, because the Examiner has the obligation to interpret the claims in the broadest reasonable manner, "degree of correlation" is anticipated by Hennessey's "maximum similarity".

5. Regarding "storing in a knowledge database ... correlation levels showing a degree of correlation between causes and corresponding questions", Hennessey at col 28, lines 9-59 identifies correlation methodology related to the smallest Euclidean distance in feature space.

